

Chesapeake Bay Exception CBE-12-095: 1404 Katherine Shaye Lane - Rolston

Staff report for the May 9, 2012 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: David R. Rolston

Land Owner: David R. Rolston

Location: 1404 Katherine Shaye Lane

Parcel: Lot 2, Club Villas, Governors Land

Parcel Identification: 4310800002

Lot Size: 0.34 acres

RPA Area on Lot: 0.27 acres or 80% of the lot (RPA only)

Watershed: James River (HUC Code JL30)

Proposed Activity: Installation of raised terrace patio

Proposed Impacts

Impervious Area: 181 square feet (approximate)

RPA Encroachment: 181 square feet to the seaward 50 foot RPA Buffer

Description of Activities

Mr. David R. Rolston has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a raised terrace/patio to the backyard of the property. The project is located at 1404 Katherine Shaye Lane within the Governors Land subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the seaward 50 foot RPA buffer.

The applicant has provided an invoice that indicates the installation of twelve (12) shrubs on March 15, 2012 to meet the mitigation requirements. It should be noted that the shrubs are non-natives whereas the requirements of the Sensitive Area Application require native plant material. In 2008, a Native Plant Task Force was convened and recommendations from that task group went to the Board of Supervisors in July 2008. The plantings do not meet the non-native plant material policy. If the board insists on native plantings in this particular case, the mitigation requirements would be an additional canopy tree (1) and three (3) shrubs.

Background of Parcel

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed accessory structure (terrace) is located within the RPA buffer, it cannot be administratively reviewed, therefore in accordance with section 23-14 of the Ordinance an exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the raised terrace adjacent to the existing raised terrace.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a County *Sensitive Area Activity Application* and an invoice for the mitigation plantings which are included in the case report packet.

Consideration by the Chesapeake Bay Board

The issue before the Board is the installation of raised terrace that will create approximately 181 square feet of impervious area within the seaward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-12-095 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or denial of Chesapeake Bay Exception CBE-12-095 are included for the Board's use and decision.

Staff Recommendations

Staff recommends **approval** of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. An acceptable mitigation planting plan that meets the non-native plant material policy created in 2008 must be submitted and approved by May 31, 2012. Surety of \$250.00 will be required in a form acceptable to the County Attorney's office.
3. This exception request approval shall become null and void if construction has not begun by May 9, 2013.
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:

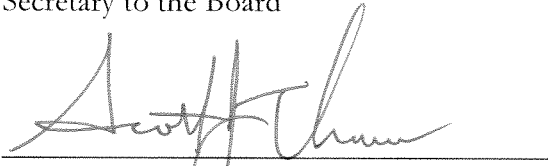


Tina Creech
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson
Secretary to the Board



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application
Non-Native Plant Policy
Exhibits:
A- Applicants letter dated 4/23/12
B- Invoice of installed plant material
C- Lot Picture (1)
D- Lot Picture (2)
E- Rear Lot Picture (1)
F- Rear Lot Picture (2)